

CITY OF MIAMI BEACH
Office of the City Manager
Letter to Commission No. 297-2004



To: Mayor David Dermer and
Members of the City Commission

Date: November 22, 2004

From: Jorge M. Gonzalez
City Manager

A handwritten signature in black ink, appearing to read "Jorge", written over the name "Jorge M. Gonzalez".

Subject: RDP ROYAL PALM DEFAULT NOTICE

Attached please find correspondence from Proskauer Rose LLP, the firm representing North Fork Bank, which has acquired from Union Planters Bank the Leasehold Mortgage on the RDP Royal Palm Hotel.

The letter from Proskauer Rose LLP indicates the Lender has declared an Event of Default under the Mortgage and Loan Documents.

Consistent with the City's actions in August 2003 when a prior default notice was received, the City's/RDA's outside counsel, Joel Minsker, has reviewed this information relative to the City/RDA's Lease Agreement and advises the loan's default does not constitute a default pursuant to the City/RDA's Lease Agreement. However, the LOI approved on November 25, 2003, required the prior Default to be satisfied. Therefore, again consistent with prior actions, attached you will also find correspondence from the City to Don Peebles asking for status on said Default.

If the Recognized Mortgagee pursues default proceedings, it is granted certain rights when it steps into the shoes of Tenant pursuant to the Lease, whereupon the Recognized Mortgagee, or its Designee, would then operate the Hotel. The significance of this is that any modifications as contemplated by the LOI, may ultimately inure to the benefit of the Recognized Mortgagee, or its Designee.

Additionally, as required under the Lease and pursuant to the LOI, the Bank's consent is required to proceed with the contemplated lease amendments.

An update to this matter will be provided at the City Commission meeting on December 8, 2004.

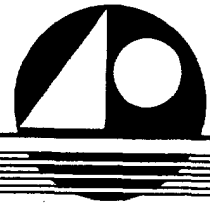
JMG\CMC\rar

F:\cmgr\ALL\TC-04\RDP Royal Palm DefaultNotice.CMC.rar.doc

c: Christina M. Cuervo, Assistant City Manager
Murray Dubbin, City Attorney
Joel Minsker, Bloom and Minsker
Kent Bonde, Redevelopment Coordinator

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139



OFFICE OF THE CITY MANAGER

TELEPHONE: (305) 673-7010
FAX: (305) 673-7782

November 22, 2004

Via U.S. Mail and E-mail

R. Donahue Peebles
RDP Royal Palm Hotel, L.P.
c/o Peebles Atlantic Development Corporation
550 Biltmore Way, Suite 970
Coral Gables, Florida 33134

Re: Closing Documents pursuant to Letter of Intent to Amend Royal Palm Crowne Plaza Resort Agreement, dated November 25, 2003 (LOI)

Dear Don:

The City is in receipt of the attached letter to the Miami Beach Redevelopment, dated November 16, 2004, from Attorney Stuart T. Kapp, who represents North Fork Bank, which has acquired the Union Planters Bank, N.A. loan to RDP Royal Palm Hotel Limited Partnership (RDP). Said letter states that North Fork Bank has declared an Event of Default against RDP in performance of the Mortgage and other Loan Documents.

In the City's letter to you of November 5, 2004, the City advised you that it had completed its review of the proposed Closing Documents pursuant to the LOI, including changes by Steve Goldman, counsel for the former lender, Union Planters Bank. Having since received the aforesaid Notice, the City cannot ignore same and the allegations in Mr. Kapp's November 16, 2004 letter.

Consistent with the City's actions last year upon receipt of the Union Planters Bank default notice, it is imperative that any and all defaults alleged by North Fork Bank in its Notice of Default to RDP be resolved prior to closing on this matter. To that end, I would request that RDP immediately inform the City in writing of any and all steps RDP intends to take with regard to curing the events set forth in North Fork Bank's Notice of Default, as well as obtaining a letter from North Fork Bank confirming that said default has been cured.

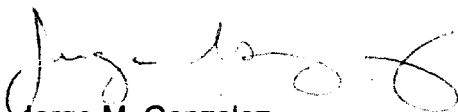
Additionally, I have reviewed Mr. Hoffman's recent revisions to the Second Amendment to Agreement of Lease, which was provided by Mr. Minsker to me on November 22, 2004 and I cannot agree to same. I would again redirect you to the City's November 5, 2004 letter to you, which referenced and reattached the City's final changes to the

Closing Documents, as set forth in Attorney Minsker's Comprehensive Changes, dated July 19, 2004, and Attorney Minsker's email to Mr. Hoffman, dated July 19, 2004.

I reiterate the City's position in its November 5, 2004 letter, that the City stood ready and stands ready, willing and able to close upon satisfactory resolution of the issues outlined in the City's November 5, 2004 letter and restoring the Mortgage and other Loan Documents to good standing.

I trust you will give this urgent matter your utmost attention.

Very truly yours,



Jorge M. Gonzalez
City Manager

F:\cmgr\ALL\CHRISTIN\JMG\Royal Palm Closing Documents - Peebles (11-22-04).doc

c: Murray H. Dubbin, City Attorney
Christina Cuervo, Assistant City Manager
Joel N. Minsker, Esquire
Commission Jose Smith
Stuart Hoffman, Esquire
Stuart T. Kapp, Esquire

F:\atto\AGUR\LETTERS\Royal Palm Closing Documents - Peebles (11-22-04).doc

PROSKAUER ROSE LLP

2255 Glades Road
Suite 340 West
Boca Raton, FL 33431-7360
Telephone 561.241.7400
Elsewhere in Florida
800.432.7746
Fax 561.241.7145

NEW YORK
LOS ANGELES
WASHINGTON
NEWARK
PARIS

Stuart T. Kapp
Attorney at Law

Direct Dial: 561.995.4730
skapp@proskauer.com

November 16, 2004

**VIA FACSIMILE, FEDERAL EXPRESS AND
CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Miami Beach Redevelopment Agency
Executive Director
1700 Convention Center Drive
Miami Beach, FL 33139

RE: Agreement of Lease dated as of May 28, 1998 (the "Ground Lease") between Miami Beach Redevelopment Agency ("Owner") and RDP Royal Palm Hotel Limited Partnership ("Tenant"), with respect to the Royal Palm Hotel, Miami Beach, Florida (the "Property")

Dear Sir or Madam:

This firm represents North Fork Bank ("Lender"), which has acquired from Union Planters Bank ("UPB") that certain Florida Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement dated as of June 2, 1998, executed Tenant by in favor of UPB, recorded in Official Records Book 18170, Page 1185, of the Public Records of Miami-Dade County, Florida (as amended from time to time, the "Mortgage"), and certain other documents executed and/or delivered from time to time in connection with the Mortgage and the loan secured thereby (as amended from time to time, the "Loan Documents"). A copy of a letter from UPB advising Tenant of the Assignment of the Loan Documents is enclosed.

In order to protect Lender's position as "Recognized Mortgagee" under the Ground Lease and consistent with past practice, notice is hereby given to Owner that Lender has declared an Event of Default under the Mortgage and the other Loan Documents. In the interests of full and fair disclosure, please be advised that Tenant disputes the existence of an Event of Default.

PROSKAUER ROSE LLP

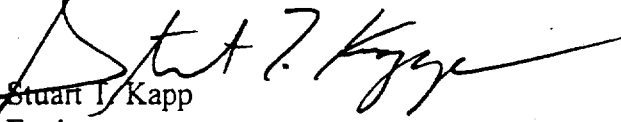
Miami Beach Redevelopment Agency
November 16, 2004
Page 2

All notice, correspondence and other communications to Lender should be made as follows:

North Fork Bank
c/o Stuart T. Kapp, Esq.
Proskauer Rose LLP
2255 Glades Road
Suite 340 West
Boca Raton, Florida 33431-7360
Telephone No. 561-995-4730
Fax No. 561-241-7145
e-mail: skapp@proskauer.com

Very truly yours,

Proskauer Rose LLP


Stuart T. Kapp
Enclosure

PROSKAUER ROSE LLP

cc: Miami Beach Redevelopment Agency
General Counsel
1700 Convention Center Drive
Miami Beach, Florida 33139

City of Miami Beach
City Manager
1700 Convention Center Drive
Miami Beach, Florida 33139

City of Miami Beach
City Attorney
1700 Convention Center Drive
Miami Beach, Florida 33139

Bloom & Minsker
Suite 700
1400 Brickell Avenue
Miami, Florida 33131
Attention: Joel N. Minsker, P.A.

RDP Royal Palm Hotel Limited Partnership
c/o Peebles Atlantic Development Corporation
550 Biltmore Way
Suite 970
Coral Gables, Florida 33134
Attn: R. Donahue Peebles

Stuart K. Hoffman, Esq.
Hunton & Williams
1111 Brickell Avenue, Suite 2500
Miami, Florida 33131

UNION PLANTERS BANK

November 10, 2004

VIA FACSIMILE AND MAIL

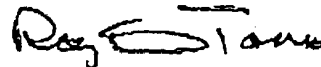
Mr. R. Donahue Peebler
RDP Royal Palm Hotel Limited Partnership
c/o PADC Hospitality Corporation I
550 Biltmore Way, Suite 970
Coral Gables, Florida 33134

Re: Union Planters Bank, N.A. loan to RDP Royal Palm Hotel Limited Partnership, a
Florida limited partnership

Dear Don:

This letter is to advise you that the Bank has assigned the loan to North Fork Bank. North Fork Bank will be contacting you to provide you with instructions for payment and other information. In the meantime, should you have any questions, please call Stuart Kapp, Esq., at (561) 995-4730.

Very truly yours,



Roy D. Tanis
Senior Vice President

cc: City Manager,
City of Miami Beach

Executive Director,
Miami Beach Economic Development Agency

\\MIA-SRV01\GOLDMANS\59419\01\11/10/04\04275.291107